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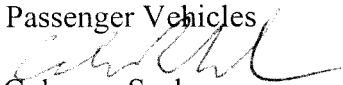
U.S. DEPARTMENT OF TRANSPORTATION
DOCKETS

U.S. Department
of Transportation

2004 DEC -1 PM 12:28

Memorandum

**National Highway
Traffic Safety
Administration**

Subject: Petition for Import Eligibility of
2004 Mercedes Benz Type 463 Short Wheel Base
(SWB) Gelaendewagen Multipurpose
Passenger Vehicles
From: 
Coleman Sachs
Office of Vehicle Safety Compliance
To: Docket Management

Date: DEC 1 2004

Please place the attached petition for a decision that 2004 Mercedes Benz Type 463 Short Wheel Base (SWB) Gelaendewagen Multipurpose Passenger Vehicles are eligible for importation in Docket No. NHTSA-2004-19737.- /

Attachment

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DEPT OF TRANSPORTATION
DOCKETSDEPARTMENT OF TRANSPORTATION
National Highway Traffic Safety Administration
Docket No. NHTSA-2004-19737

2004 DEC -1 PM 12:18

Notice of Receipt of Petition for Decision that
Nonconforming 2004 Mercedes Benz Type 463 Short Wheel Base
(SWB) Gelaendewagen Multipurpose Passenger Vehicles (MPVs) are
Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that
nonconforming 2004 Mercedes Benz type 463 SWB Gelaendewagen
MPVs are eligible for importation.

SUMMARY: This document announces receipt by the National
Highway Traffic Safety Administration (NHTSA) of a petition for
a decision that 2004 Mercedes Benz type 463 SWB Gelaendewagen
MPVs that were not originally manufactured to comply with all
applicable Federal motor vehicle safety standards are eligible
for importation into the United States because (1) they are
substantially similar to vehicles that were originally
manufactured for importation into and sale in the United States
and that were certified by their manufacturer as complying with
the safety standards, and (2) they are capable of being readily
altered to conform to the standards.

DATE: The closing date for comments on the petition is [30
days after publication in the Federal Register].

ADDRESS: Comments should refer to the docket number and notice
number, and be submitted to: Docket Management, Room PL-401,
400 Seventh St., SW, Washington, DC 20590. [Docket hours are
from 9 am to 5 pm]. Anyone is able to search the electronic

form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202-366-3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Under 49 U.S.C. § 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards may also be granted admission into the United States, even if there is no

substantially similar motor vehicle of the same model year originally manufactured for importation into and sale in United States, if the safety features of the vehicle comply with or are capable of being altered to comply with those standards based on destructive test information or other evidence that NHTSA decides is adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

J.K. Motors of Baltimore, Maryland ("J.K.") (Registered Importer 90-006) has petitioned NHTSA to decide whether 2004 Type 463 SWB Gelaendewagen MPVs are eligible for importation into the United States. J.K. has identified its petition as pertaining to both the Cabriolet and the Three Door versions of these vehicles. J.K. believes that these vehicles can be made to conform to all applicable Federal motor vehicle safety standards (FMVSS).

In its petition, J.K. noted that NHTSA has granted import eligibility to 2001-2003 Mercedes Benz type 463 SWB Gelaendewagen MPVs (VCP-25) that they claim are identical to the 2004 Mercedes Benz type 463 SWB Gelaendewagen MPVs that are the subject of this petition. In their petition for the 2001-2003 vehicles the petitioner stated that over a period of ten years, NHTSA has granted import eligibility to a number of Mercedes Benz Gelaendewagen type 463 vehicles. These include the 1990-1996 SWB version of the vehicle (assigned vehicle eligibility number VCP-14) and the 1996 through 2001 long wheel base (LWB) version of the vehicle (assigned vehicle eligibility numbers VCP-11, 15, 16, 18, and 21). These eligibility decisions were based on petitions submitted by J.K. and another register importer, Europa International, Inc., claiming that the vehicles were capable of being altered to comply with all applicable FMVSS. Because those vehicles were not manufactured for importation into and sale in the United States, and were not certified by their original manufacturer (Daimler Benz), as conforming to all applicable FMVSS, they cannot be categorized as "substantially similar" to the 2004 SWB versions for purposes of establishing import eligibility under 49 U.S.C. § 30141(a)(1)(A). In addition, while there are some similarities between the SWB and LWB versions, NHTSA has decided that the 2002 through 2005 LWB versions of the vehicle that Mercedes Benz has manufactured

for importation into and sale in the United States cannot be categorized as substantially similar to the SWB versions for the purpose of establishing import eligibility under section 30141(a)(1)(A). Therefore, we will construe J.K.'s petition as a petition pursuant to 49 U.S.C. § 30141(a)(1)(B).

J.K. submitted information with its petition intended to demonstrate that 2004 Type 463 SWB Gelaendewagen MPVs, as originally manufactured, comply with many applicable FMVSS and are capable of being modified to comply with all other applicable standards to which they were not originally manufactured to conform.

Specifically, the petitioner claims that 2004 Type 463 SWB Gelaendewagen MPVs has safety features that comply with Standard Nos. 102 Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect, 103 Windshield Defrosting and Defogging Systems, 104 Windshield Wiping and Washing Systems, 106 Brake Hoses, 113 Hood Latch System, 116 Motor Vehicle Brake Fluid, 119 New Pneumatic Tires for Vehicles Other than Passenger Cars, 124 Accelerator Control Systems, 135 Passenger Car Brake Systems, 201 Occupant Protection in Interior Impact, 202 Head Restraints, 204 Steering Control Rearward Displacement, 205 Glazing Materials, 206 Door Locks and Door Retention Components, 207 Seating Systems, 209 Seat Belt Assemblies, 210 Seat Belt Assembly Anchorages, 212 Windshield Mounting, 214 Side Impact

Protection, 216 Roof Crush Resistance, 219 Windshield Zone Intrusion, and 302 Flammability of Interior Materials.

Petitioner also contends that the vehicles are capable of being to meet the following standards, in the manner indicated:

Standard No. 101 Controls and Displays: (a) replacement of the instrument cluster with the U.S.-model component; (b) replacement of the cruise control lever with a U.S.-model component on vehicles that are not so equipped; (c) reprogramming and initialization of the vehicle control system to integrate the new instrument cluster and activate required warning systems.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: (a) installation of U.S.-model headlamps and front sidemarker lights; (b) installation of U.S.-model taillamp assemblies or modification of existing taillamps to conform to the standard; (c) installation of U.S.-model sidemarker lights.

Standard No. 111 Rearview Mirrors: replacement of the passenger side rearview mirror with a U.S.- model component or inscription of the required warning statement on the mirror's surface.

Standard No. 114 Theft Protection: reprogramming of the vehicle control systems to activate the required driver warning.

Standard No. 118 Power-Operated Window, Partition, and Roof Panel Systems: reprogramming of the vehicle control systems to meet the requirements of this standard.

Standard No. 120 Tire Selection and Rims for Motor Vehicles Other than Passenger Cars: installation of a tire information placard.

Standard No. 208 Occupant Crash Protection: programming of the vehicle control systems to activate the required seat belt warning system. The petitioner states that the vehicles are equipped with driver's and passenger's air bags and knee bolsters, and with combination lap and shoulder belts that are self-tensioning and that release by means of a single red push button at the front and rear outboard seating positions.

Standard No. 225 Child Restraint Anchorage Systems: installation of U.S.-model child seat anchorage components.

Standard No. 301 Fuel System Integrity: The petitioner states that the vehicles' fuel systems must be modified with U.S.-model parts to meet U.S. Environmental Protection Agency (EPA) OBDII, Spit Back, and enhanced EVAP requirements. The petitioner claims that as modified, these systems will control all fuel leaks in the case of an impact.

The petitioner also states that a vehicle identification plate must be affixed to the vehicle near the left windshield post and a reference and certification label must be affixed

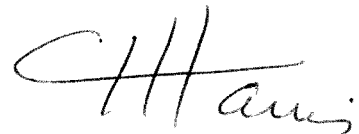
in the area of the left front door post to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on:



Claude H. Harris
Director, Office of Vehicle
Safety Compliance

Billing Code: 4910-59-P